

### **REMARKS**

Claims 1-9 are pending in the application. Claims are not amended, however, applicants herewith provide the pending claims 1-9 for the examiner's convenience. The Office Action is discussed below:

On page 2 of the Office Action, the examiner has rejected claims 1-9 allegedly as being anticipated by Savage (USPN 6,699,211). According to the examiner, Savage discloses an implant for draining chamber water from the front eye chamber into one or more episcleral veins consisting of one tubular part 34, a guide wire (refers to Figures 4; col. 10, lines 50-57). The examiner asserts that the limitations directed to piercing the vein and withdrawing the wire are directed to an intended use of the article. The examiner also asserts that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

The examiner believes that the Savage article consists of several tubular parts 36, a plate 40, having diameters in the claimed range (refers to col. 5, lines 45-58; col. 12, lines 36-52); and one or more eyelets 42, and the article is made of inert silicone materials (refers to col. 12, lines 64-67).

Applicants respectfully disagree with the examiner and traverse the rejection. Applicants refer the examiner to MPEP § 2131 (Rev. 5, August 2006) that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicants submit that the instantly claimed element "Implant for draining chamber water from the front eye chamber into one or more episcleral veins" is not expressly or inherently disclosed in Savage article. Accordingly and for the reasons discussed below the Savage disclosure does not anticipate the claimed invention:

Applicants point out that the Examiner has misinterpreted the disclosure of Savage (USPN 6,699,211). Applicants position is set forth below.

Savage discloses an implant for draining chamber water from the anterior chamber of the eye to the Schlemm's canal and not for draining chamber water from the anterior chamber of the eye into one or more episcleral veins, as stated by the Examiner. The natural drainage from the Schlemm's canal is directed towards the episcleral veins, but this is not part of the implant according to the Savage disclosure. The part of the description of the Savage reference cited by the Examiner (column 10, lines 50-57) describes a method of clearing an obstructed tube which has been implanted previously into the Schlemm's canal. The method of clearing the tube discloses a microscopic obturator and the implant provides special ports (44) to insert this obturator. Another use of the port (44) is to measure the pressure within the Schlemm's canal. Such pressure measurement can guide the implantation in the sense that the surgeon gets feedback regarding the position of the implant.

Beside the above mentioned differences, the implant according to Savage does not show a guide wire as recited in claim 1 of the instant application. This guide wire (8), according to the present application, allows implantation of the tube (1) directly into an episcleral vein. The guide wire (8) with a sharp front end stabilizes the tube (1) and can be used for piercing the episcleral vein during implantation. As can be read from the description of the present application, in operation the episcleral vein is uncovered and pierced with the tip of the guide wire (8). After the puncture of the episcleral vein, the tube (1) can be pushed forward with its distal end (3) into the vein and then affixed with the eyelets to the sclera with sutures. Then the guide wire (8) can be removed and the proximal end (2) of the implant can be introduced through a limbic puncture incision of suitable diameter into the front chamber of the eye. The proximal area (4) and the central area (5) of the implant can be shifted under a scleral flap (see paragraph [0023] of the instant published application).

In contrast, the Savage disclosure does not provide a guide wire with a tip, but rather describes ports of the implant which may be used by an obturator. From the description it is clear that the obturator is not designed for puncture of a miniature vessel, but rather serves to clean an obstructed tube of the implant in patients with failed surgery.

Applicants further clarify that the implant according to Savage has three parts, namely:

- a. A first tube adapted to be inserted into the anterior chamber; and
- b. At least two wing tubes extending from the first tube, the two wing tubes adapted to be inserted into the Schlemm's canal; and
- c. A pump mechanism operatively connected to the seton.

The combination of the three parts does not encompass or suggest the claimed invention, which relates to a combination of a tube adapted to be inserted into the anterior chamber and the episcleral veins; and a special guide wire for stabilization of the tube and piercing the vein with its distal sharp tip.


The examiner refers that the Savage article consists of several tubular parts 36, a plate 40, having diameters ranging from 80 microns to 100 microns and one or more eyelets 42 (refers to Savage col. 5, lines 45-58; col. 12, lines 36-52). In response, applicants point out that, among many other elements, the Savage does not provide a guide wire with a tip, as discussed above. Therefore, a mere similarity with an internal diameter of an article (for example, diameter of a tubular parts of an implant and eyelets are known in the art), does not anticipate the claimed invention.

Finally, with respect to the Examiner's concern regarding column 12, lines 64-67 of the Savage reference, applicants note that silicone is a common material used for implants. Based on the above, applicants submit that the Savage does not disclose each and every element as set forth in the claim. Hence, Savage does not anticipate the claimed invention. Therefore, withdrawal of the anticipation rejection is solicited.

**REQUEST**

Applicants submit that claims 1-9 are in condition for allowance, and respectfully request favorable consideration to that effect. The Examiner is invited to contact the undersigned at (202) 416-6800 should there be any questions.

Respectfully submitted,

  
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